

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ON APPEAL FROM THE EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Toni M. Piponius
U.S. Patent Serial No.: 09/956,989
Filing Date: September 21, 2001
Group No.: 2155
Examiner: David R. Lazaro
Confirmation No. 2944
Title: PROXY FOR CONTENT SERVICE

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

REPLY BRIEF

Pursuant to 37 C.F.R. § 1.193, Appellant respectfully files this Reply Brief in response to the Examiner's Answer dated February 21, 2008 ("Examiner's Answer"). Appellant maintains that the final rejection of Claims 1-11, 13-22, 24, 25, and 27-31 is improper and respond to the Examiner's Answer below.

ARGUMENTS

Appellant filed an Appeal Brief on December 17, 2007, explaining clearly and in detail why Claims 1-11, 13-22, 24, 25, and 27-31 are allowable over the combinations of references proposed the Examiner in the Final Office Action mailed August 21, 2007. Specifically, Appellant demonstrated that the rejection of Claims 1-11, 13-22, 24, 25, and 27-31 over the proposed combination of *Ginzboorg* and *Davis* is improper. For the reasons discussed below, Appellant respectfully submits that these rejections continue to be improper and should be reversed by the Board.

I. Appellant's Claims are Allowable over the Cited References

Appellant has carefully reviewed the Examiner's Answer. Appellant, however continues to submit that *Ginzboorg* and *Davis*, even when considered in combination, do not disclose, teach, or suggest the combination of elements recited in Appellant's claims for the reasons presented in the Appeal Brief and presented below.

A. Claims 1-11, 13-22, 24, 25, and 27-31

In the Appeal Brief, Appellant demonstrated that the proposed *Ginzboorg-Davis* combination does not disclose, teach, or suggest the following recited in Claim 1 (emphasis added):

determining, by the proxy, whether or not the content is chargeable content, wherein the *determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free* to end users connected to a network.

In the Examiner's Answer, the Examiner points to col. 6, lns. 3-10; col. 10, lns. 21-29; col. 12, lns. 42-53; and col. 13, lns. 15-24 of *Ginzboorg* as disclosing the above elements. (Examiner's Answer, pp. 22-24).

These passages of *Ginzboorg*, however, merely disclose that a charging record, which is sent to a customer terminal, includes parameters indicating a method of payment:

First the billing server retrieves from the service database the parameters corresponding to the service in question and sends (arrow C) a certain type of charging record (CDR) to the customer terminal. The charging record contains the billing parameters to be used during the session in question and the contract number.

(*Ginzboorg*, col. 6, lns. 4-10.)

METHOD OF PAYMENT: The parameter in this field is defined for CDRs of type 0, 5, 1 and 2. The methods of payment may be categorized, for example, as follows: free, one-time charge (one CDR), periodical or eternally triggered, that is, another process in the customer terminal may trigger it.

(*Ginzboorg*, col. 10, lns. 21-26.)

In fact, one of the passages indicates that a billing server database need not store free services:

These databases can be maintained by different organizations and they do not need to be identical. For example, free services do not need to be stored in the billing server database.

(*Ginzboorg*, col. 13, lns. 17-20.) That is, *Ginzboorg* merely discloses that a charging record, not a billing server database, includes parameters indicating a method of payment. Moreover, *Ginzboorg* indicates that a billing server database need not store free services.

Accordingly, *Ginzboorg* fails to disclose, teach, or suggest “determining, by the proxy, whether or not the content is chargeable content, wherein ***the determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free*** to end users connected to a network,” of Claim 1 (emphasis added).

For at least these reasons, independent Claim 1 and its dependent claims are allowable under 35 U.S.C. § 103. For analogous reasons, independent Claim 29 and its respective dependent claims are allowable under 35 U.S.C. § 103. Accordingly, Appellant respectfully submits that the rejections of Claims 1-11, 13-22, 24, 25, and 27-31 are improper and should be reversed by the Board.

CONCLUSION

Appellant has demonstrated that the present invention, as claimed, is clearly distinguishable over the prior art cited by the Examiner. Therefore, Appellant respectfully requests the Board to reverse the final rejections and instruct the Examiner to issue a Notice of Allowance with respect to all pending claims.

No fees are believed due; however, the Commissioner is authorized to charge any fees or credits to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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